HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 48 of 2004

1. Biswas Pal S/o Balwant Rai
2. Balwant Rai S/o Sri Kundan Lal
3. Smt. Sheela W/o Balwant Rai
   All R/o 7937/4 Nai Basti
   Nadi Mohalla P.S. Kalal Majri
   Ambala Cantt .....Applicants

Versus

1. State of Uttaranchal
   Through Secretary Home, Dehradun
2. District Magistrate, Haridwar
3. S.P., Haridwar
4. Station Office
   P.S. Jwalapur
   District Haridwar
5. Smt. Maryada D/o Jaspal Singh
   R/o 105 Adarsh Nagar
   Behind Ahuja Petrol Pump
   District Haridwar .....Respondents

AND

Criminal Misc. Application No. 47 of 2004

1. Biswas Pal S/o Balwant Rai
2. Balwant Rai S/o Sri Kundan Lal
3. Smt. Sheela W/o Balwant Rai
4. Vishwas Pal S/o Balwant Rai
   All R/o 7937/4 Nai Basti
   Nadi Mohalla P.S. Kalal Mazri
   Ambala Cantt, Hariyana .....Applicants

Versus

1. State of Uttaranchal
2. C.J.M., Haridwar
3. Smt. Maryada D/o Jagpal Singh
   R/o 105 Adarsh Nagar
   Behind Ahuja Petrol Pump
   District Haridwar .....Respondents

AND

Criminal Misc. Application No. 388 of 2004

1. Balwant Rai S/o Sri Kundan Lal
2. Smt. Sheela W/o Balwant Rai
3. Vishwas Pal S/o Balwant Rai
   All R/o 7937/4 Nai Basti
   Nadi Mohalla P.S. Kalal Mazri
   Ambala Cantt, Hariyana .....Applicants

Versus

1. State of Uttaranchal
2. C.J.M., Haridwar
3. Smt. Maryada D/o Jagpal Singh
   R/o 105 Adarsh Nagar
   Behind Ahuja Petrol Pump
   District Haridwar .....Respondents

Hon'ble J.C.S. Rawat, J.

Heard Sri Rajendra Kotiyal & Sri Vivek Shukla learned counsel for the applicants, Sri Sandeep Tandon & Sri Sanjeev Singh learned counsel for the private respondents and learned A.G.A. for the State.

This order shall dispose of the Criminal Misc. Appl. No. 48/ 2004, Crl. Misc. Appl. No. 47/ 2004 and Crl. Misc. Appl. No. 388/ 2004.

The criminal misc. application No. 48/2004 has been filed for quashing the proceedings in the case No. 917 of 2003 pending before the Special Judicial Magistrate- II, Haridwar under sections 406 & 506 I.P.C. and the criminal misc. application No. 47/2004 has been filed for quashing the proceedings in case No. 918/2003. The criminal misc. application No. 388/2004 has been directed for quashing the chargesheet and to set aside the summoning order dated 5682 /2003 (State Vs. Balwant Rai & others) under sections 494, 498-A, 323, 324 IPC & 3/4 Dowry Prohibition Act, P.S. Jwalapur, District Haridwar.

It has been alleged that the marriage was solemnized between the applicant-Biswas Pal and Smt. Maryada- respondent on 15.2.2003 according to Hindu rites and customs. Smt. Maryada came to know that she is the second wife of her husband- Biswas Pal and prior to her marriage, the marriage of Smt. Swati @ Suman Lata and her husband was dissolved by mutual consent on 11.2.2003. Thereafter, on 17.8.2003 the

FIR was lodged by Smt. Maryada against the applicants alleging therein that the applicants are demanding dowry and they are illtreating her. The police investigated the matter and submitted the chargesheet before the court. Thereafter, the Magistrate summoned the applicants vide order dated 6.1.2003.

It has also been alleged that Smt. Maryada has, by now, filed four cases against the applicants i.e. (a) case no. 5682 /2003 under sections 498-A, 323, 324, 494 & 3/4 Dowry Prohibition Act pending before the CJM, Haridwar; (b) case No.164/2003 under section 125 Cr.P.C. pending before the Family Court Haridwar; (c) case no.917/2003 under sections 406, 506 IPC pending before Special J.M., Haridwar and (d) case no. 918/2003 under sections 494, 109, 120-B I.P.C. pending before Special Judicial Magistrate, Haridwar.

During the course of hearing, the applicant- Vishwas Pal(husband) has filed his affidavit on 29.6.2003 stating therein that the dispute between the parties has been amicably settled by way of compromise. The applicant-Vishwas Pal has also filed the statement of her wife-Smt. Mariyada recorded before the family court, in which she stated that the parties have amicably settled their dispute and the cases pending against the applicant may be disposed of in terms of the compromise.

As per the compromise, the deponent has already deposited five drafts of Rs. 1,50,000/- before the family court, i.e. (i) Draft no.949582 dated 23.3.2002 of Rs. 30,000 SBI Ambala, (ii) Draft No.949583 dt. 23.3.2005 of Rs. 20,000/- SBI Ambala, (iii) Draft no.349236 dated 23.3.2005 of Rs. 50,000 Bank of Baroda Ambala, (iv) Draft no.089447 dt. 27.1.2005 of Rs. 30,000 of UCO Bank Ambala and (v) Draft

No.062101 dated 5.4.2005 of Rs. 20,000/- UCO Bank Ambala}. The photocopies of the abovementioned drafts, which was filed before the family court, have also been annexed with the affidavit.

It has been alleged in the compromise that a draft has been deposited in the family court and as such the lower court will dispose of the said draft in terms of the compromise. The parties have stated that the time of the draft of Rs.30,000/- is expiring very soon. Therefore, the parties are directed to revalidate the draft within a stipulated time and the court below shall dispose of the said draft in terms of the compromise, expeditiously. The parties are directed to revalidate the drafts before the date of expiry and the trial court will also take care of the expiry dates of the drafts deposited by the applicant- Biswas Pal.

Considering that the parties have entered into an amicable settlement and no useful purpose will be served to prolong the pendency of the above mentioned cases. It has been held by the Hon'ble Supreme Court in **B.S. Joshi and Ors. Vs. State of Haryana and Anr. JT 2003(3) SC 277:-**

> *"12. The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.*
>
> *13. The observations made by this Court, though, in a slightly different context, in* **G.V. Rao V. L.H.V. Prasad and others 2000(3) SCC p/693** *are very apt for determining the approach required to be kept in view in matrimonial dispute by the Courts. It was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose*

of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly extent which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about re-approchment are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law where it takes years and years to conclude and in that process the parties lose their 'young' days in chasing their 'cases' in different Courts."

Considering the above facts and the principles laid down by the Apex Court, the charge-sheets mentioned above and entire proceedings in case no. 5682/2003 pending before the CJM, Haridwar, case no. 917/2003 pending before Special J.M., Haridwar and case no. 918/2003 pending before Special Judicial Magistrate, Haridwar are hereby quashed.

The petition are allowed accordingly.

(J.C.S. Rawat, J.)

Dated 29.06.2005
LSR